United Nations A/56/403/Add.1

General Assembly

Distr.: General
9 November 2001
English
Original: English and Spanish

Fifty-sixth session
Agenda items 96 (a) and 110

Sectoral policy questions: business and development

Crime prevention and criminal justice

Prevention of corrupt practices and illegal transfer of funds

Report of the Secretary-General

Addendum

Summary

The present addendum contains responses provided by Member States regarding measures adopted to implement General Assembly resolution 55/188 of 20 December 2000, which were received after the preparation and submission of the report of the Secretary-General on the prevention of corrupt practices and illegal transfer of funds (A/56/403) to the General Assembly at its fifty-sixth session.

01-63307 (E) 211101

II. Preventing and combating corrupt practices

A. Measures adopted by countries

Italy

[Original: English]

1. With regard to the effects of foreign judgements, article 740 of the Italian Code of Criminal Procedure states that: "... confiscated items are returned to the State. On the other hand, they are returned, on its request, to the State where the judgement was pronounced, provided this latter State would, under the same circumstances, return the items to the Italian State ...". This means that the possibility of returning confiscated items to the sentencing State, which requested it on mutual terms, is provided for in the Italian legislation. Although the possibility of dividing the items between the two States concerned is not foreseen, in the reply provided by the Italian authorities, it was suggested that this would be possible, subject to a specific agreement.

2. So far, there have been no cases in which Italy requested or was requested to divide confiscated items.

3. Since it is necessary to make clear in general terms the purpose of the division of the items, in the reply submitted by Italy, it was noted that dividing confiscated items into equal parts, except for the costs incurred by the confiscating State, would be the most satisfactory criterion. It was also noted that there must always be a request by the sentencing State and that the decision related thereto is up to the administering State.

4. In addition, it was pointed out that, when there is a sum of money involved, it is not problematic to divide it in a systematic way; in the other cases, the administering State will have the right to grant the request made by the sentencing State.

Panama

[Original: English]

1. The Government of Panama has passed legislation aimed at the prevention of corruption. With the adoption of Law 59 of 29 December 1999, article 299 of the Political Constitution, which foresees the mandatory disclosure of assets for certain categories of public officials, has been regulated. In addition, public officials of the executive branch of the Government have been prohibited from accepting any gift whatsoever in connection with the discharge of their official duties.

2. Executive Decree 99 of 13 September 1999 created a National Directorate Against Corruption (*Dirección Nacional contra la Corrupción*) in order to prevent, identify, denounce and eradicate the acts of corruption as defined in the Inter-American Convention Against Corruption of the Organization of American States, which was ratified by Law 42 of 1 July 1998. The National Directorate against Corruption is the entity responsible for developing a national integrity plan aimed at the prevention and detection of corruption, as well as at promoting civil society measures to reduce corruption.

3. Executive Decree 19 of 25 January 1996 regulates article 16, chapter III, of Law 56 of 27 December 1995, which establishes the principle of transparency within the system of public contracting. The decree aims at the eradication of corruption in the public administration and in the local governments. Violations are punished pursuant to the relevant provisions of the Panamanian Criminal Code.

Peru

[Original: Spanish]

1. The Government of Peru has taken the following measures:

(a) Conduct of a national survey by the World Bank Institute concerning the perception of the concepts "corruption" and "governability" in Peru. This survey made it possible to analyse corruption in Peru and to formulate general policies to prevent, control and sanction corrupt practices;

(b) Launching of the National Anti-Corruption Initiative under the auspices of the transitional Government as a specialized civil society group charged with the task of formulating the general lines of anti-corruption policy;

(c) Holding of the First International Anti-Corruption Conference, along with regional forums on the same subject;

(d) Preparation of a national report by the National Anti-Corruption Initiative to establish a

comprehensive analysis of corruption in Peru, in which more than a hundred special sectorial measures for the prevention and sanctioning of corruption are proposed;

(e) Placement of a Fiscal Transparency Portal on the Internet by the Ministry of Economics and Finance, in which all measures taken to implement the public sector budget are published;

(f) Promulgation of Public Laws 27378, 27379 and 27380, establishing a special office within the prosecution service for the battle against organized crime, including crimes of corruption. Mechanisms are established to promote effective cooperation in dealing with such crimes, and measures are set forth in connection with preliminary investigations;

(g) Promulgation of Public Law 27482 and the relevant regulations which govern publication of the Sworn Statement of Earnings, Property and Income of State Officials and Civil Servants. At present, the sworn statements of all officials mentioned in the Law and the regulations are published in the official gazette *El Peruano*;

(h) Amendment of article 401 of the Criminal Code, involving the introduction of a new paragraph to establish indicative criteria for determining whether an offence of illicit enrichment has been committed;

(i) Consolidation in the public sector of the practice of publishing draft laws of special relevance in the official gazette *El Peruano* before their promulgation, with a view to stimulating public discussion;

(j) Initiation of the procedure established by the Organisation for Economic Cooperation and Development, so that Peru can adhere to the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions;

(k) Active participation of Peru in the process of implementing the Inter-American Convention Against Corruption of the Organization of the American States;

(l) Organization and management of the fourteenth meeting of the Group of Experts to Control Money Laundering of the Inter-American Drug Abuse Control Commission, in which Peru proposed amendments to the Guide to Legislation with regard to the classification of money-laundering offences;

(m) Preparation, by a Commission appointed by the Ministry of Justice, of the preliminary draft of a law on drugs, which proposes to broaden the scope of the concept "money laundering" to encompass both the specific object of the crime (laundering of assets) and also the predicate offence (all types of crime and not just illicit trafficking in narcotic drugs);

(n) Preparation of a technical report by the Ministry of Justice establishing Peru's position on the terms of reference for a future United Nations convention against corruption. The report helped to ensure Peru's active participation in the discussions of the Intergovernmental Open-Ended Expert Group to Prepare Draft Terms of Reference for the Negotiation of an International Legal Instrument against Corruption, which met in Vienna from 30 July to 3 August 2001.

2. Peru has made substantial progress in applying resolution 55/188 of 20 December 2000, despite the short time that had passed since it was approved by the General Assembly. The application of more comprehensive institutional and legislative measures depends basically on the amount of emphasis the Congress of the Republic and the new Government are prepared to give to the prevention of corrupt practices, money laundering, illicit transfers of funds and the question of their repatriation to the country of origin.

3. Finally, the following measures, inter alia, are being adopted in the medium term by the new Peruvian authorities: establishment of a financial intelligence unit; creation of a central anti-corruption authority; formulation of a national plan for the prevention of corruption; active participation of the country in the drafting and negotiation of the United Nations convention against corruption and revision of the criminal law in matters of corruption and laundering of assets.